

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KORY DAVID STONE,

Plaintiff,

Case No. 11-CV-14378

vs.

HON. MARK A. GOLDSMITH

COMMISSION OF
SOCIAL SECURITY

Defendant.

ORDER

(1) ADOPTING THE RECOMMENDATION CONTAINED IN THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION DATED FEBRUARY 7, 2013 (DKT. 15), (2) GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (DKT. 11), and (3) DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (DKT. 14)

This matter is presently before the Court on the Report and Recommendation (R&R) of Magistrate Judge Mona K. Majzoub, issued on February 7, 2013. In the R&R, the Magistrate Judge recommends granting in part and denying in part Plaintiff's motion for summary judgment (Dkt. 11), so that the case is remanded pursuant to sentence four of 42 U.S.C. § 405(g), and denying Defendant's motion for summary judgment (Dkt. 14).

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."); Smith v. Detroit Fed'n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987)

(failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash, 328 F.3d 98, 1078 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard.”). There is some authority that a district court is required to review the R&R for clear error, see Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error and adopts the recommendation.

Accordingly, Plaintiff’s motion for summary judgment (Dkt. 11) is granted in part and denied in part and Defendant’s motion for summary judgment is denied (Dkt. 14). For the reasons stated by the Magistrate Judge, the case is remanded pursuant to sentence four of 42 U.S.C. § 405(g).

SO ORDERED.

Dated: March 1, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on March 1, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager